

NTSB Order No. EM-190

Issued under delegated authority (49 C.F.R. 800.24)  
on the 12<sup>th</sup> day of October, 2001

Appellant.

Docket ME-172

The record reflects that the appellant received on May 8, 2001, notification from the Coast Guard, dated May 1, that it was rejecting his appeal from a January 16, 2001 license revocation Order because no notice of appeal had been filed by February 19, when the applicable 30-day deadline expired. On June 24, 2001, appellant filed with the Board a notice of appeal from the Coast

<sup>1</sup>The Coast Guard asserts that appellant had earlier also failed to file, as required by 33 C.F.R. Part 20, a timely notice of appeal to the Commandant from the decision of the Coast Guard Administrative Law Judge who revoked appellant's merchant mariner licenses and document on finding proved a charge of misconduct based on appellant's alleged failure to submit to a random chemical test while employed aboard a vessel.

Guard's May 1 decision. Appellant asserts that the notice is timely because it was filed within 10 days after the "Commandant's Final Decision" in the matter on June 14. The undersigned disagrees.

To appeal to the Board from the dismissal of his flawed attempt to appeal from the law judge's revocation order, appellant needed to file a notice of appeal by May 18. That deadline was not extended by appellant's *subsequent* receipt of advice (based on a *subsequent* effort apparently intended to obtain further elaboration of the reasons underlying the May 1 dismissal) that reiterated the Coast Guard's reasons for its previously communicated decision that the appellant had not followed its appeal procedures.<sup>2</sup> The Coast Guard's dismissal decision was therefore final, for purposes of an appeal to us, on May 8, 2001, and appellant's failure to appeal it to us by May 18 requires, in the absence of a showing of good cause, the dismissal of his later-filed notice. See Administrator v. Hooper, 6 NTSB 559 (1988), aff'd 948 F.2d 781 (D.C. Cir. 1991).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Coast Guard's motion to dismiss is granted; and
2. The appellant's appeal is dismissed.

Ronald S. Battocchi  
General Counsel

---

<sup>2</sup>It is far from clear on this record that the appellant had a right to reconsideration of the May 1 decision or, if he did, the period within which such additional review needed to be sought. What is clear is that the appellant's June 24 notice of appeal does not challenge the Coast Guard's June 14 communication as an improper denial of reconsideration.